

SENATE BILL 1074

By McNally

AN ACT to amend Tennessee Code Annotated, Title 3,
Chapter 6 and Title 4, Chapter 3, relative to public
access to governmental records and meetings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

§3-6-401.

(a) There is created as an independent entity of state government, the ombudsman's council for open government. The membership of the Tennessee ethics commission shall also comprise the membership of the council.

(b) The council shall appoint a full-time executive director who shall serve at the pleasure of the council and who shall have the title of ombudsman. Other staff shall be employed on recommendation of the executive director with the approval of the council. Employees of the council shall not have career service status but shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests. The executive director and all council employees shall abide by the same restrictions as are prescribed in §3-6-103(b)(2) for employees of the ethics commission. The executive director and staff of the ombudsman's council for open government may not serve as executive director or staff of the ethics commission; and the executive director and staff of the ethics commission may not serve as executive director or staff of the ombudsman's council for open government.

(c) For administrative purposes, the council shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense

accounts, budget, audit, and other related items. The autonomy of the council and its authority are not affected by this subsection, and the secretary of state shall have no administrative or supervisory control over the council.

(d) It shall be the duty of the ombudsman's council for open government to ensure that all departments, agencies, offices, entities, officials and employees of state government are fully informed of, and fully and timely comply with, the letter and intent of laws providing the public the right of access to state governmental records and meetings. The council shall maintain a website and a toll-free telephone number.

(e) The council of open government is authorized to:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this part;

(2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require, by subpoena duces tecum, the production of books, papers, records or other evidence needed for the performance of the council's duties or exercise of its powers;

(3) Provide educational opportunities for, or issue written advisory opinions to, any state department, agency, office, entity, official or employee that is subject to the council's scope of authority;

(4) Request legal and investigative assistance from the office of the attorney general and reporter;

(5) Conduct hearings and investigations to determine if any department, agency, office, entity, official or employee of state government has failed to timely or fully comply with any law providing the public the right of access to state governmental records and meetings;

(6) Petition the chancery court, through the attorney general and reporter or its own legal counsel, for enforcement of any law providing the public the right of access to state governmental records and meetings; and

(7) Initiate and exercise authority under subdivisions (5) or (6) on its own behalf or upon request of any citizen or organization adversely affected by violation of any law providing the public the right of access to state governmental records and meetings.

(f) The provisions of this part shall not be construed to supersede the provisions of any law identifying a governmental record to be confidential or authorizing a meeting to be conducted in private.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.